

LOCAL MAP AMENDMENT REZONING PROCESS in Montgomery County, Maryland



*Office of Zoning and Administrative Hearings
Montgomery County, Maryland*

INTRODUCTION

Zoning is the regulation of private land by the County Council's creation of zone districts in which certain uses are permitted (and others prohibited); yards, other open spaces, and building setbacks are required; and lot areas, building heights, and other requirements are established.

Rezoning in Montgomery County—the zoning of land can be changed in two ways:

1. A *Sectional Map Amendment* is a comprehensive rezoning of an area of the County, usually to implement the recommendations of a master plan. Sectional Map Amendments are proposed only by the Planning Board or the County Council and must be approved by the Council.
2. A *Local Map Amendment* is a rezoning requested for a particular parcel of land by the property owner or a contract purchaser, and must be approved by the County Council.

APPLICATION PROCESS

1. An application, with required supporting materials, is filed with the Office of Zoning and Administrative Hearings.
2. The subject property is posted with a yellow and black sign that contains the case number, the existing zoning, the requested zoning, the size of the site, and the Office of Zoning and Administrative Hearings' phone number to call for more information. The sign must be posted continuously throughout the process.
3. The applicant sends a letter to all abutting and confronting property owners, as well as affected citizens' associations, explaining briefly the nature of the zoning request and the rezoning process.

4. The Office of Zoning and Administrative Hearings sends a copy of the application and supporting materials to the Development Applications and Regulatory Coordination Division of the Planning Department.
5. The Office of Zoning and Administrative Hearings sends notice of the date for its public hearing on the case to confronting and abutting property owners and affected citizens associations. It is up to each individual who wants to have input in the case to follow up.

TECHNICAL STAFF REVIEW

6. A zoning analyst in the Development Applications and Regulatory Coordination Division is assigned to the case. In a Technical Staff Report, the zoning analyst analyzes and makes a recommendation about whether the application satisfies the *Zoning Ordinance* requirements.
7. The zoning analyst puts together the other elements of the Technical Staff Report, which are memoranda on the application from the appropriate Area Planning Division addressing the applicable Master Plan provisions, transportation, and environmental impacts.
8. All comments and letters from individuals and associations received in a timely manner by the zoning analyst are attached to the Technical Staff Report.

PLANNING BOARD PUBLIC HEARING

9. The Technical Staff Report appears on the Planning Board website, http://www.montgomeryplanningboard.org/meetings_archive/, approximately 10 days before the Planning Board's public hearing on the case.
10. The Planning Board holds a public hearing on the case; this is usually on a Thursday during the day.
11. The Planning Board public hearing is a timed hearing that takes place in the following order:
 - a. The zoning analyst explains the Technical Staff Report.
 - b. The applicant has 15 minutes to present its case and may reserve time for rebuttal after community representatives speak.
 - c. Government officials have 7 minutes.
 - d. Citizen associations have 10 minutes. Each abutting neighbor has 5 minutes. Any other individual has 3 minutes.
12. After the presentations, the Planning Board may ask questions, and then the members of the Board discuss the application and vote on a recommendation for approval or denial.
13. The Planning Board's written recommendation and the Technical Staff Report are forwarded to the Office of Zoning and Administrative Hearings.

PUBLIC HEARING BY OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS

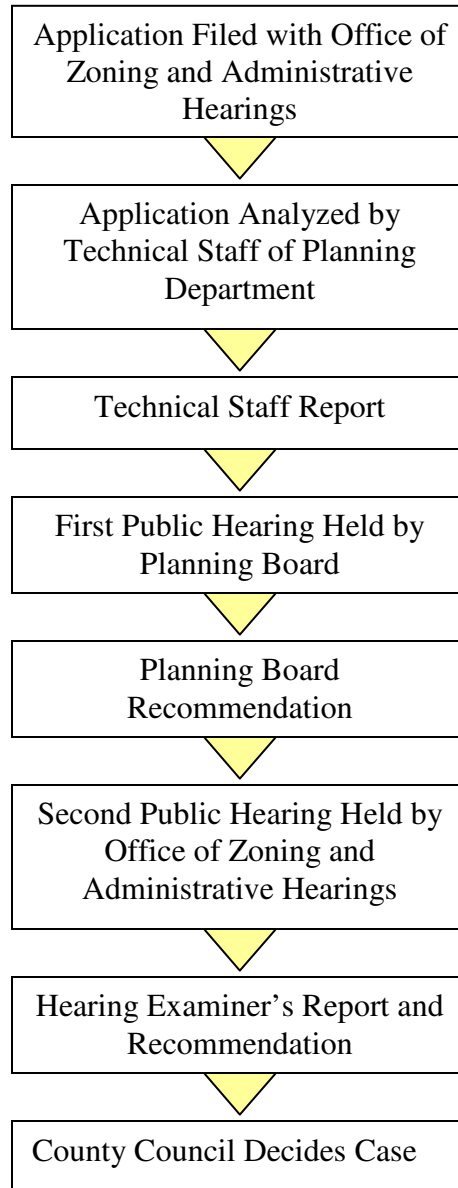
14. The Office of Zoning and Administrative Hearings assigns a Hearing Examiner to conduct the second required public hearing on the application.
15. The Hearing Examiner's public hearing has no time limits, witnesses are sworn in, there is cross-examination after each witness testifies, and a complete transcript is made; the hearing takes place in the following order:
 - a. The applicant puts on its case through testimony and exhibits.
 - b. Any government witnesses, such as members of the Planning staff, may testify.
 - c. Any other parties, whether in support or in opposition, then present their case through testimony and exhibits.
 - d. The applicant has the right to put on rebuttal testimony and exhibits.
 - e. The record includes hearing testimony and all exhibits submitted to the Hearing Examiner. Testimony and exhibits submitted to the Planning Board are not part of the record or considered by the Hearing Examiner and the County Council unless they are submitted before or during the Hearing Examiner's hearing.
16. After the close of the record, the Hearing Examiner has 45 days to submit to the County Council a report with a recommendation to approve or deny the application, or to remand the case, back to the Hearing Examiner for the submission of additional information.

COUNTY COUNCIL DECISION

17. No one may talk to a member of the County Council about a requested Local Map Amendment Rezoning outside a public session.
18. Any party of record may request oral argument in front of the County Council to argue against or for the Hearing Examiner's recommendation. The Council may grant or deny oral argument in its discretion. The Council may ask for oral argument in the absence of a request for argument.
19. The Council discusses the Hearing Examiner's Report and the case during a public session and votes on whether to grant the rezoning, deny it, or seek additional information from the Hearing Examiner.
20. Any party may ask the Council to reconsider its decision or appeal the case to the Circuit Court of Montgomery County within 30 days after the Council's written resolution in the case.

Rezoning case files may be reviewed in the Office of Zoning and Administrative Hearings (OZAH), 100 Maryland Avenue, Suite 200, Rockville, MD 20850. OZAH may also be reached at (240) 777-6660 or by e-mail at ozah@montgomerycountymd.gov.

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Office of Zoning and Administrative Hearings
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